

**REMARKS**

In the Office Action, the Examiner rejected claims 1-22, 24, and 25. By this paper, Applicants have amended claims 1-16, 20, 22, 24, and 25. These amendments do not add any new matter and support for the amendments may be found at least by viewing FIG. 2, with specific attention to reference numerals 14A-14E, as well as page 4, lines 15-17, page 9, lines 3-5 , and page 11, line 15 – page 12, line 3 of the originally filed specification. Upon entry of these amendments, claims 1-22, 24, and 25 remain pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of all pending claims.

**Claim Rejections under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-5, 8-12, 15, 17-22, 24, and 25 under 35 U.S.C. § 102(e) as anticipated by Scheinert et al., U.S. Patent No. 7,117,015 (hereinafter “Scheinert”). Applicants respectfully traverse this rejection.

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

***Omitted Features of Independent Claim 1,***

Scheinert fails to anticipate all elements of independent claim 1. Independent claim 1 recites, *inter alia*, “a communication interface, coupled to the antenna, and configured to facilitate communication between the base station and an access network unit over an undedicated public network, wherein the communication between the base station and the access network unit is independent of a dedicated connection. (Emphasis added.)

Scheinert discloses a plurality of base stations 22. See Scheinert, FIGS. 2 and 5. Scheinert further discloses that each of these base stations 22 are connected to a base station controller 26 via a dedicated line. See Scheinert, col. 2, lines 5-9 and 17-19. Accordingly, because Scheinert discloses base stations 22 are connected to a base station controller 26 (and eventually to a public switched telephone network 30) via a dedicated line, Scheinert cannot be read as disclosing facilitating communication between a base station and an access network unit “over an undedicated public network,” as recited in independent claim 1. That is, a connection that facilitates communication over a dedicated line cannot be read as a connection that facilitates communication over an undedicated public network.

Moreover, independent claim 1 specifically recites that “the communication between the base station and the access network unit is independent of a dedicated connection.” Accordingly, because Scheinert discloses communication between a base station and a base station controller 26 via a dedicated line (see Scheinert, col. 2, lines 5-9 and 17-19), Scheinert cannot be read as disclosing “the communication between the base station and the access network unit is independent of a dedicated connection,” as recited in independent claim 1.

Additionally, Scheinert also appears to disclose internet base stations (IBS) 42, which allow a user to utilize an internet connection to connect to a public switched telephone network. See Scheinert, FIG. 5. However, Scheinert specifically discloses that these IBS 42 are not conventional base stations (e.g. base stations 22) that rely on dedicated connections to connect to

the public switched telephone network, but rather supplement the disclosed base stations 22 that rely on dedicated connections to connect to the public switched telephone network. *See Scheinert*, col. 5, lines 1-13. Accordingly, because Scheinert clearly differentiates between base stations 22 and IBS 42, the IBS 42 cannot be read as the “base station” recited in independent claim 1.

Therefore, Scheinert fails to disclose all elements of independent claim 1. As such, Scheinert cannot anticipate independent claim 1 under Section 102. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of independent claim 1, as well as all claims depending therefrom.

***Omitted Features of Independent Claim 17***

Scheinert fails to anticipate all elements of independent claim 17. Independent claim 17 recites, *inter alia*, “at least one routine for facilitating communication of information over an undedicated public network between at least one base station, which is adapted to communicate over an air interface with portable communications devices, and a controller.” (Emphasis added.)

As noted above with respect to the rejection of independent claim 1, Scheinert discloses a plurality of base stations 22 each connected to a base station controller 26 via a dedicated line. *See Scheinert*, FIGS. 2 and 5; col. 2, lines 5-9 and 17-19. Accordingly, because Scheinert discloses base stations 22 are connected to a base station controller 26 (and eventually to a public switched telephone network 30) via a dedicated line, Scheinert cannot be read as disclosing facilitating communication between a base station and a controller “over an undedicated public network,” as recited in independent claim 17. That is, a connection that facilitates communication over a dedicated line cannot be read as a connection that facilitates communication over an undedicated public network.

Moreover, while Scheinert appears to disclose internet base stations (IBS) 42, which allow a user to utilize an internet connection to connect to a public switched telephone network (*see* Scheinert, FIG. 5), Scheinert specifically discloses that these IBS 42 are not conventional base stations (e.g. base stations 22) that rely on dedicated connections to connect to the public switched telephone network, but rather supplement the disclosed base stations 22. *See* Scheinert, col. 5, lines 1-13. Accordingly, because Scheinert clearly differentiates between base stations 22 and IBS 42, the IBS 42 cannot be read as the “base station” recited in independent claim 17.

Therefore, Scheinert fails to disclose all elements of independent claim 17. As such, Scheinert cannot anticipate independent claim 17 under Section 102. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of independent claim 17, as well as all claims depending therefrom.

#### *Omitted Features of Independent Claim 20*

Scheinert fails to anticipate all elements of independent claim 20. Independent claim 20 recites, *inter alia*, “transmitting the information packet from the base station to the access network unit independent of a dedicated connection.” (Emphasis added.)

As noted above with respect to the rejections of independent claim 1 and 17, Scheinert discloses a plurality of base stations 22 each connected to a base station controller 26 via a dedicated line. *See* Scheinert, FIGS. 2 and 5; col. 2, lines 5-9 and 17-19. Accordingly, because Scheinert discloses base stations 22 are connected to a base station controller 26 (and eventually to a public switched telephone network 30) via a dedicated line, Scheinert cannot be read as disclosing transmitting an information packet from the base station to the access network unit “independent of a dedicated connection,” as recited in independent claim 20. That is, because Scheinert discloses communication between a base station and a base station controller 26 via a dedicated line (*see* Scheinert, col. 2, lines 5-9 and 17-19), Scheinert cannot be read as disclosing

transmitting an information packet from the base station to the access network unit “independent of a dedicated connection,” as recited in independent claim 20.

Furthermore, Scheinert also appears to disclose internet base stations (IBS) 42, which allow a user to utilize an internet connection to connect to a public switched telephone network. See Scheinert, FIG. 5. However, Scheinert specifically discloses that these IBS 42 are not conventional base stations (e.g. base stations 22) that rely on dedicated connections to connect to the public switched telephone network, but rather supplement the disclosed base stations 22 that rely on dedicated connections to connect to the public switched telephone network. See Scheinert, col. 5, lines 1-13. Accordingly, because Scheinert clearly differentiates between base stations 22 and IBS 42, the IBS 42 cannot be read as the “base station” recited in independent claim 20.

Therefore, Scheinert fails to disclose all elements of independent claim 20. As such, Scheinert cannot anticipate independent claim 20 under Section 102. Accordingly, Applicants respectfully request withdrawal of the rejection and allowance of independent claim 20, as well as all claims depending therefrom.

#### **Claim Rejections under 35 U.S.C. § 103(a)**

In the Office Action, the Examiner rejected claims 13 and 14 under 35 U.S.C. § 103(a) as unpatentable over Scheinert in view of Searle et al., U.S. Patent No. 5,603,089 (hereinafter “Searle”), claim 16 as unpatentable over Scheinert in view of Ketonen, U.S. Patent No. 6,104,917 (hereinafter “Ketonen”), and claims 6 and 7 as unpatentable over Scheinert in view of Kowalski et al., U.S. Patent No. 6,631,410 (hereinafter “Kowalski”). Applicants respectfully traverse this rejection.

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). To establish *prima facie*

obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). However, it is not enough to show that all the elements exist in the prior art since a claimed invention composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). It is important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. *Id.* Specifically, there must be some articulated reasoning with a rational underpinning to support a conclusion of obviousness; a conclusory statement will not suffice. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Indeed, the factual inquiry determining whether to combine references must be thorough and searching, and it must be based on *objective evidence of record*. *In re Lee*, 61 U.S.P.Q.2d 1430, 1436 (Fed. Cir. 2002).

***Omitted Features of claims 6, 7, 13, 14, and 16***

Each of dependent claims 6, 7, 13, 14, and 16 depend from independent claim 1. Based at least upon their respective dependencies from allowable independent claim 1, as well as for the elements individually recited in each of dependent claims 6, 7, 13, 14, and 16, Applicants respectfully submit that the cited art of record fails to teach each element of dependent claims 6, 7, 13, 14, and 16. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 6, 7, 13, 14, and 16 under 35 U.S.C. § 103(a).

**Conclusion**

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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